BEFORE THE STATE BOARD OF EQUALIZATION

OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
)
SAN FRANCISCO CREDIT UNION)

Appearances:

For Appellant: E. R. Zion, its Secretary-Treasurer

For Respondent: W. M. Walsh, Assistant Franchise Tax Commissioner; Frank M. Keesling, Franchise Tax Counsel

O P I N I O N

This appeal is made pursuant to Section 25 of the Bank and Corporation Franchise Tax Act (Chapter 13, Statutes of 1929, as amended) from the action of the Franchise Tax Commissioner in overruling the protest of the San Francisco Credit Union, a corporation, to the Commissioner's proposed assessment of additional tax in the amount of $105.44 for the taxable year ended December 31, 1936, based upon the income of the corporation for the year ended December 31, 1935.

The Appellant was incorporated on April 3, 1934, under the California Credit Union Act (Statutes 1927, p. 51, as amended; Deering General Laws, Act 1887). Its capital structure consists of two classes of shares, designated as Class A and Class B shares, and One Hundred Dollar interest bearing certificates. Each member of the Credit Union must purchase one Class A share, which is a $10 par value voting share, but can not purchase more than one of such shares. The member may then purchase one or more Class B shares, which are $10 par value non-voting shares, and one or more of the interest-bearing certificates. The Credit Union loans to its members at interest the funds which it acquires from the issuance of the shares and certificates, and after deducting operating expenses, which include interest paid to holders of certicicates and a sum for a Guaranty Fund, distributes the balance of the amount received as interest on these loans to the Class A and Class B shareholders. The only question presented by this appeal is the correctness of the action of the Commissioner in denying to the Appellant a deduction from its gross income of the amount of $903.14 distributed by the Appellan to the shareholders.

The Appellant contends that the amount paid to its shareholders is deductible from its gross income as interest, and, as a wholly independent ground, that all income received by it as interest on its loans to members is deductible under Section 8(1) of the Bank and Corporation Franchise Tax Act. In view of the conclusion we have reached, the latter point is the only

one that requires discussion.

Section 8(1) authorizes the following deduction from gross income:

> "In the case of other associations organized and operated in whole or in part on a cooperative or a mutual basis, all income resulting from or arising out of business activities for or with their members, or with nonmembers, done on a nonprofit basis."

The "other associations" referred to are those not covered by the three preceding subdivisions of Section 8, which contain special provisions applicable respectively to mutual building and loan associations, mutual savings banks, and farmers cooperative marketing associations. Although there appears to be no question but that Appellant is an association of the type referred to in the above quoted provision of the Act, the Respondent contends that Appellant is not authorized to take any deduction because its business was not "done on a nonprofit basis." In our opinion, however, two principles of statutory construction, when applied to the language of the above provision, preclude us from adopting the construction for which Respondent contends. The first is that unless the contrary is established by the context or the evident meaning of the section qualifying words are to be applied only to their last antecedent (Los Angeles County v. Graves, 210 Cal. 21; Helping Hand Home for Children v. San Diego County, 26 Cal. App. (2d) 452; 59 Corpus Juris. 985.) Thus, if this rule is to be followed, the words "done on a nonprofit basis" must be construed as referring only to business with nonmembers and not to business with members. The other principle is that effect is to be given, when possible, to all of the language employed in a legislative enactment. (Los Angeles County v. Graves, supra; 23 Cal. Jur. 757.) It is to be observed that had Section 8(1) been intended not to make any distinction between business with members and that with nonmembers, there would have been no purpose in specifically mentioning the two kinds of activity, as the intent could have been most clearly expressed by referring merely to business activities done on a nonprofit basis. In view of these considerations, we believe Section 8(1) must be construed as authorizing the deduction of all income from business with members, and the deduction of income from business with nonmembe: in those cases in which the business is done on a nonprofit basi

Since Appellant's loans were made entirely to its members, it follows that whatever income was derived therefrom is deductible under the provisions of Section 8(1).

O R D E R

Pursuant to the views expressed in the opinion of the Board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the action of Chas. J. McColgan, Franchise Tax Commissioner, in overruling the protest of San Francisco Credit Union, to a proposed assessment of additional tax for the taxable year ended December 31, 1936, in the amount of $105.44, pursuant to Chapter 13, Statutes of 1929, as amended, be and the same is hereby reversed. Said ruling is hereby set aside and the said Commissioner is hereby directed to proceed in conformity with this order.

-Done at Sacramento, California, this 7th day of July, 1942, by the State Board of Equalization.

R. E. Collins, Chairman
Wm. G. Bonelli, Member
George R. Reilly, Member
Harry B. Riley, Member

ATTEST: Dixwell L, Pierce, Secretary